

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT KERUGOYA
CIVIL APPEAL NO. 2 OF 2013

GRACE MUGURE.....APPLICANT/APPELLANT

-VERSUS-

THE MANAGER, MWEA

IRRIGATION SETTLEMENT.....1ST RESPONDENT

DANIEL GIKARU NJENGA.....2ND RESPONDENT

HEZRON GITERI MURIMI.....3RD RESPONDENT

ORDER

The appellant has filed an application dated 15th January, 2013 seeking a temporary injunction against the 2nd Respondent to restrain him and his agents from transferring, surrendering Rice Holding No. 1733 Unit 4 Mwea Irrigation Scheme and/or interfering with her possession, use and enjoyment of 2 acres of the said Rice Holding pending hearing and determination of the appeal. In addition, she sought stay of proceedings in SRM CC No. 191/2012 pending the hearing and determination of this appeal.

I have perused the record and noted that the 2nd Respondent's replying affidavit is missing from the record. This despite the fact that on 4th February, 2013 when the matter was before Hon. Justice Wakiaga, Miss Munene for the applicant informed the Judge that she was served with a replying affidavit and grounds of objection. The Court granted her leave to file a further affidavit. Subsequently the appellant's supplementary affidavit was filed in response to the said replying affidavit.

The replying affidavit seems to have been misplaced. It would not be fair to render the ruling in the application without the benefit of considering the said replying affidavit.

I direct that the 2nd Respondent do avail a copy of the replying affidavit to enable the Court to give an informed ruling in the matter.

Dated and delivered at Kerugoya this 20th day of December, 2017.

L. W. GITARI

JUDGE

Read out in open court, M/s Kiragu holding brief for Wangechi Munene for appellant, M/s Thungu for 2nd Respondent absent, court assistant Naomi Murage this 20th day of December, 2017.

L. W. GITARI

JUDGE

20.12.2017